

REMARKS

Claims 1-56 remain pending in the present application. Claims 1-56 are rejected. Claims 3, 22 and 39 are amended herein. No new matter has been added.

Claim Rejections - 35 U.S.C. §102(a)

Claims 1, 2, 4-21, 23-38 and 40-56

The present office action states that Claims 1, 2, 4-21, 23-38 and 40-56 are rejected under 35 U.S.C. § 102(a) as being anticipated by Lee et al. (US PUB 2003/0225701), hereinafter “Lee”.

Applicants have reviewed Lee and respectfully submit that the embodiments of the present invention as recited in Claims 1, 1, 2, 4-21, 23-38 and 40-56 are not anticipated by Lee for the following reasons.

Applicants respectfully submit Claim 1 (and similarly Claims 21 and 37) includes the features, “a method for controlling presentation of a computer readable media of a media storage device, said method comprising:

verifying the presence of a media presentation mechanism and a usage compliance mechanism on a computer system, said usage compliance mechanism comprising a file system filter driver for controlling data reads associated with said computer readable media, said media presentation mechanism communicatively coupled with said usage compliance mechanism;

performing a first decryption of said computer readable media with said file system driver; and

performing a second decryption of said computer readable media and presenting said computer readable media with said media presentation mechanism, said second decryption different from and unrelated to said first decryption.” (emphasis added).

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single

prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants have reviewed Lee and do not understand Lee to **anticipate** the feature, “said second decryption different from and **unrelated to** said first decryption.” (emphasis added).

In contrast, beginning at the first paragraph of page 3, the present Office Action states “[p]erforming a first decryption of said computer readable media with said file system driver (Lee: [0100]: the header portion is **decrypted in order to extract content key and usage rules**): and performing a second decryption of said computer readable media and presenting said computer readable media with said media presentation mechanism, said second decryption different from and unrelated to said first decryption (Lee: [0102]: the content is **decrypted using the content key residing in the decrypted header portion**).” (Emphasis added).

I. Applicants respectfully submit that the Office Action has not provided a prima facie case of anticipation for every element as set forth in the claim, including the feature, “said second decryption different from and **unrelated to** said first decryption.”

In contrast, the Office Action has provided clear and compelling evidence that the second decryption **is directly related** to the first decryption.

Specifically, the statement that “the content is **decrypted using the content key residing in the decrypted header portion**” clearly provides that without the content key residing in the decrypted header portion, the content cannot be decrypted. In other words, the second decryption of Lee **is logically and obviously related** to the first decryption, **since without the first decryption, the second decryption cannot occur**.

In contrast, the Claimed features clearly state, “said second decryption different from and unrelated to said first decryption.” Thus, by direct analysis it is clear that Lee as described in the present Office Action cannot anticipate the claimed features.

For this reason, Applicants respectfully submit that Lee does not anticipate the features as recited in independent Claims 1, 21 and 37.

II. With respect to the statement at item 28, the Office Action states, “Based on broadest interpretation of the claim as presented, the first and second decryption are indeed different and unrelated because they keys required for each decryption are different.” (Emphasis Added)

Applicants respectfully disagree with the Office Action’s understanding of the Claim language. Specifically, Applicants point out that the response to arguments has not addressed all of the Claimed features but has instead only addressed one of the claimed features. For example, the claim language “said second decryption **different from and unrelated to** said first decryption” is clearly two statements.

- A. “said second decryption different from said first decryption.” (emphasis added); and
- B. “said second decryption unrelated to said first decryption.” (emphasis added).

The Office Action has attempted to address the different feature, e.g., “the first and second decryption are indeed **different and unrelated because they keys required for each decryption are different**.” (Emphasis Added)

However, while the Office Action has provided some argument regarding the **different** language, the Office Action has not provided any argument to support the **unrelated** language.

In contrast, the Office Action has provided significant support that the first and second decryptions are related. Specifically, beginning at the first paragraph of page 3,

the present Office Action states “[p]erforming a first decryption of said computer readable media with said file system driver (Lee: [0100]: the header portion is decrypted in order to extract content key and usage rules): and performing a second decryption of said computer readable media and presenting said computer readable media with said media presentation mechanism, said second decryption different from and unrelated to said first decryption (Lee: [0102]: the content is decrypted using the content key residing in the decrypted header portion).” (Emphasis added).

In other words, based on the statement that “the content is decrypted using the content key residing in the decrypted header portion” Applicants understand the Office Action to clearly provide that without the content key residing in the decrypted header portion, the content of Lee cannot be decrypted. In other words, the second decryption of Lee *is logically and obviously related* to the first decryption, **since without the first decryption, the second decryption cannot occur.**

For this additional reasoning, Applicants respectfully submit that Lee fails to anticipate each and every element as recited in independent Claims 1, 21 and 37. As such, Applicants respectfully submit that Independent Claims 1, 21 and 37 overcome the rejections under 35 U.S.C. §102(a), and are thus in condition for allowance.

III. At page 10 item 27, the Response to Arguments states, “Furthermore, the applicant argues that prior art does not disclose that the first decryption and second decryption are unrelated. The examiner disagrees. **The degree of relationship can vary from totally unrelated or just unrelated in certain aspect. Based on the claim language, it is difficult to ascertain how unrelated the two decryptions are.** Therefore, applicant is advised to clarify the first and second decryption process and how they are different and unrelated to expedite prosecution.” (Emphasis Added)

Applicants respectfully submit the above statements appear to be improper with respect to Applicants’ understanding of Claim interpretation.

Specifically, Applicants understand **MPEP 2111** to clearly provide the guidance that seems to be requested by the Office Action, “During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” >The Federal Circuit’s en banc decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the “broadest reasonable interpretation” standard:

The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must “conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.” 37 CFR 1.75(d)(1).” (Emphasis added).

Further, **MPEP 2173.05(a)** states, “[D]uring patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification. *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969). See also MPEP § 2111 - § 2111.01. When the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art. *In re Zletz*, 893 F.2d 319, 13 USPQ2d 1320 (Fed. Cir. 1989).” (Emphasis added)

MPEP 2106 (II)(C) states, “USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). (Emphasis added)

Applicants submit that the Specification provides clear and concise support for the broadest reasonable interpretation of the claimed features. For example, page 113 lines 4-13 states,

“It is noted that when the media (e.g., 2001) of media storage device 999 is encrypted utilizing multiple different encryptions (e.g., 1351 and 2351), the

media is more secure against those with dishonest and/or unlawful interests. For example, a person/hacker may attempt to gain access to the content by breaking the second encryption (e.g., 2351) applied to a media content (e.g., 2001).

However, if they are successful, the remaining encryption, (e.g., 1351) remains unbroken by virtue of the differing encryptions. Therefore, the person/hacker would have to perform the entire encryption breaking process again to access media content 2001 on media storage device 999.” (Emphasis added).

Therefore, it is respectfully submitted that the features “second decryption different from and unrelated to said first decryption” are terms that are clearly described in the Specification as being different and unrelated. That is, the Specification clearly states that breaking the second encryption **does not provide any value or assistance** with breaking the first encryption.

Again, this **is directly away from the teachings** of Lee as provided by the Present Office Actions, e.g., the breaking of the header decryption would directly provide the decryption information for the second encryption.

Thus, Applicants respectfully contend that the Specification provides clear meaning for the features “second decryption different from and unrelated to said first decryption”, found in the Claims.

As such, Applicants respectfully submit the Claim must be examined using the meaning, in order to achieve a complete exploration of the Applicant's invention and its relation to the cited reference.

For this further reasoning, Applicants respectfully submit that Lee fails to anticipate each and every element as recited in independent Claims 1, 21 and 37. As such, Applicants respectfully submit that Independent Claims 1, 21 and 37 overcome the rejections under 35 U.S.C. §102(a), and are thus in condition for allowance.

With respect to Claims 2, 4-20, 23-36, 38 and 40-56, Applicants respectfully point out that Claims 2, 4-20, 23-36, 38 and 40-56 depend from allowable independent Claims

1, 21 and 37 and recite further embodiments of the present claimed invention. Therefore, Applicants respectfully submit that Claims 2, 4-20, 23-36, 38 and 40-56 overcome the rejections under 35 U.S.C. §102(a), and that these claims are thus in a condition for allowance as being dependent on allowable base claims.

Claim Rejections - 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected Claims 3, 22 and 39 under 35 U.S.C. §103(a) as being unpatentable over Lee. Applicants have reviewed Lee and respectfully submit that the embodiments of the present invention as recited in Claims 3, 22 and 29 are not rendered obvious in view of Lee for the following reasons.

I. Applicants respectfully submit in order to establish a *prima facie* case of obviousness, the prior art must suggest the desirability of the claimed invention (MPEP 2142). In particular, “if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious” (emphasis added) (MPEP 2143.01; *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

I(a). Applicants respectfully submit Claim 3 (and similarly Claims 22 and 39) include the features:

“using an autorun mechanism disposed on said media storage device in a clandestine manner to initiate said installing of said usage compliance mechanism on said computer system in response to said computer system receiving said media storage device.” (emphasis added)

Support for the Claimed features can be found throughout the Specification including at least page 21 lines 16-17, page 67 lines 20-21, page 96 lines 4-6, page 98 lines 20-24, page 114 lines 17-20 and page 118 lines 1-5.

Specifically, page 117 line 21 through page 118 line 2 states:

“For example, media storage device 999 is purchased by or delivered to a user, the user inserts media storage device 999 into the appropriate storage device reader or connector coupled with the recipient's computer, and autorun protocol 910 initiates UCM 1200 install of CCM 300, file system filter driver 1220, secure media player 1210 on client system 210 in a manner clandestine to the user.”
(Emphasis Added)

As stated on page 9 of the Present Office Action:

“Lee does not explicitly disclose using an autorun mechanism disposed on said media storage device for initiating said installing of said usage compliance mechanism on said computer system in response to said computer system receiving said media storage device; and using said auto run mechanism for initiating said installing of said media presentation mechanism on said computer system in response to said computer system receiving said media storage device.”
(Emphasis Added)

Further, Applicants respectfully point out on page 9 the Office Action states:

“However, autorun mechanism stored on media storage device is well known in the art to prompt installation of software.” (Emphasis Added)

Thus, based on the statements of the Office Action, the Claimed features, “using an autorun mechanism disposed on said media storage device in a clandestine manner to initiate said installing of **said usage compliance mechanism** on said computer system” **would change the method of operation** of the autorun mechanism as provided by the Office Action. E.g., “However, autorun mechanism stored on media storage device is well known in the art to prompt installation of software.” (Emphasis Added)

For this reason, Applicants respectfully submit that Claims 3, 22 and 39 overcome the rejections under 35 U.S.C. §103(a), and that these claims are in a condition for allowance.

I(b). Applicants respectfully submit Claim 3 (and similarly Claims 22 and 39) include the features:

using said autorun mechanism in a clandestine manner to initiate said installing of said media presentation mechanism on said computer system in response to said computer system receiving said media storage device.

As stated on page 9 of the Present Office Action:

“Lee does not explicitly disclose using an autorun mechanism disposed on said media storage device for initiating said installing of said usage compliance mechanism on said computer system in response to said computer system receiving said media storage device; and using said auto run mechanism for initiating said installing of said media presentation mechanism on said computer system in response to said computer system receiving said media storage device.”
(Emphasis Added)

Further, Applicants respectfully point out on page 9 the Office Action states:

“However, autorun mechanism stored on media storage device is well known in the art to prompt installation of software.” (Emphasis Added)

Thus, based on the statements of the Office Action, the Claimed features, “using an autorun mechanism disposed on said media storage device in a clandestine manner to initiate said installing of said media presentation mechanism on said computer system” would change the method of operation of the autorun mechanism as provided by the Office Action. E.g., “However, autorun mechanism stored on media storage device is well known in the art to prompt installation of software.” (Emphasis Added)

For this reason, Applicants respectfully submit that Claims 3, 22 and 39 overcome the rejections under 35 U.S.C. §103(a), and that these claims are in a condition for allowance.

I(c). Furthermore, with respect to Claims 3, 22 and 39, Applicants respectfully point out that Claims 3, 22 and 39 depend from allowable independent Claims 1, 21 and 37 and recite further embodiments of the present claimed invention. Therefore, Applicants respectfully submit that Claims 3, 22 and 39 also overcome the rejections under 35 U.S.C. §103(a) as being dependent on allowable base claims.

CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-56 overcome the rejections of record, and therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,
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